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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Annual Assessment of the Status of)
Competition in the Market for the)
Delivery of Video Programming)

CS Docket No. 95-61

To: The Commission

COMMENTS OF CAI WIRELESS SYSTEMS, INC.

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COMMENTS OF CAI WIRELESS SYSTEMS, INC.

CAI Wireless Systems, Inc. ("CAI"), and its wholly owned subsidiary, Connecticut Choice Television, Inc., through counsel, pursuant to Sections 1.415 and 1.419 of the Commission's Rules, hereby submits the following comments in response to the Federal Communication Commission's ("FCC") Notice of Inquiry on the status of competition in the market for the delivery of video programming, CS Docket No. 95-61, released May 24, 1995 (FCC 95-186).

CAI is a publicly traded wireless cable television company, and is engaged in the packaging and distribution of video programming through a number of media, including wireless cable ("MMDS") and video dial tone. The Commission has solicited comment for its annual report to Congress on significant instances of anticompetitive conduct by cable operators against wireless cable companies and other multichannel video programming distributors, particularly in the context of access to video programming.

CAI respectfully draws the Commission's attention to the current and ongoing refusal of Cablevision Systems, Inc., ("Cablevision"), a vertically integrated cable systems operator, and its holding company, Rainbow Programming Holdings, Inc.,

("Rainbow") to provide CAI and Connecticut Choice with the satellite cable programming of Sportschannel New England and Sportschannel New York. Connecticut Choice Television has requested this programming for distribution as a multichannel video programming distributor ("MVPD") on the Southern New England Telephone ("SNET") video dialtone trial, as expanded, for central and southern Connecticut. Cablevision presently has an attributable interest in these satellite cable programming vendors, as defined by Section 628(i) of the 1992 Cable Act, 47 U.S.C. § 547(i). Cablevision and Rainbow have also refused to provide authorization for the Hartford Connecticut Choice wireless cable system to carry Sportschannel New England.

After fruitless efforts to obtain Cablevision's sports programming, CAI and Connecticut Choice were compelled to file a program access complaint against Cablevision, Rainbow and the two Sportschannels.¹ CAI and Connecticut Choice currently await the decision of the Cable Services Bureau on this matter. Neither Cablevision nor Rainbow have made any attempt to negotiate or to provide authorization for Connecticut Choice's carriage of the programming on either the expanded video dialtone trial or on the Hartford MMDS system. Cablevision currently authorizes two Cablevision-owned franchises which operate in the service area of the southern portion of the expanded video dial tone trial to carry

¹ CAI and Connecticut Choice filed a Program Access Complaint for Unfair and Deceptive Practices, Exclusivity and Discrimination on February 28, 1995, following service on February 9, 1995 of an appropriate notice on Cablevision, Rainbow and the two Sportschannels. An Answer was filed by these Parties on April 3, 1995. CAI and Connecticut Choice filed a Reply with the Commission on April 28, 1995.

Sportchannel New York. In central Connecticut, Cablevision authorizes two TCI-owned subsidiaries to carry Sportschannel New England, in areas where the expanded video dialtone trial will compete.

CAI has recently learned, through counsel, that Madison Square Garden Network ("MSG"), a satellite cable programming vendor presently owned by Cablevision, has also refused to provide its programming to CAI and Connecticut Choice for distribution on the expanded SNET video dialtone trial. This refusal is particularly surprising because MSG did authorize Connecticut Choice to carry MSG on the initial SNET video dialtone trial to pass 1500 homes in West Hartford, Connecticut. It appears that this authorization occurred prior to the sale of MSG to a Cablevision and ITT joint venture. Cablevision presently has an attributable interest in MSG, as defined by Section 628(i) of the 1992 Cable Act, 47 U.S.C. § 547(i).

Congress gave specific attention to the pricing and availability of sports programming in legislating the 1992 Cable Act. The reasonable availability of sports programming, as well as other popular programming, is critical to the development of viable economic competitors to hard wire cable systems operators. Connecticut consumers already pay exorbitant prices to view Cablevision's programming. Cablevision's conduct in this instance is consistent with its concurrent litigious practices -- to delay

and resist intrusion into its lucrative monopoly markets by any means available, including restricting and refusing access to its sports programming.

Respectfully submitted,

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